



South Carolina House of Representatives

Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

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Legislative Update

Legislative Aides Available for Service

Last session the House voted an appropriation of \$150,000 to provide additional assistance to members, generally for constituent-related services. The funds will be used to hire temporary Legislative Aides (sometimes known as "Superpages.") The Operations and Management Committee of the House has completed work on this project. Guidelines will shortly be released by the Speaker concerning the Legislative Aides.

Use of the aides will be arranged by individual members, with payment handled through House Bookkeeping. The necessary forms and documentation are available from the House Bookkeeping Office.

Guidelines for the use of the Legislative Aides will include the following points:

1. Each member will be allocated approximately \$1,200 per session for the aides. This includes all with-holding that will be required, such as social security, retirement system if applicable, and so forth. The intent of the House was that the aides are to be employed in Columbia, not in the home districts.

2. Representatives should not hire members of their immediate family to work as Legislative Aides.

3. Aides are to provide legislative, clerical and constituent-related services—not political duties.

4. House Bookkeeping will keep an account of funds expended by members, but individual members should keep a running total of the funds they have left. If a member overspends his or her allotment, the Aide cannot receive payment.

5. Members who hire a Legislative Aide should notify Ann Martin and Security in the Blatt Building of the Aide's name to help keep track of additional persons in the building.

Final guidelines will be issued in the near future.

Prefiled Bills: A Survey of Legislation Ahead

Bills prefiled with the Clerk of the House during the interim run the gamut from crime to tax relief. A summary of some of the more notable proposed legislation follows.

Crime and Punishment

Growing Pot on Another's Property (H.3107). This legislation would amend Article 7, Chapter 11, of Title 16 of the Code to make it illegal for any person to use someone else's land to grow marijuana. The penalty: prison for "not less than five years." While cultivating marijuana would remain illegal, cultivating it on a neighbor's property would be a separate offense; such an incident happened during the summer of 1985. As Francis Bacon observed, "He that will not apply new remedies must expect new evils; for time is the greatest innovator."

Murder of a Person Under 18 Years (H.3117). The South Carolina Code provides a number of "aggravating factors" which help determine whether a murderer should receive the death penalty. These circumstances include such actions as murder committed during a rape or attempted rape; kidnapping; burglary; during robbery with a deadly weapon; murder committed by a person with a prior conviction of murder; murder of a judicial officer or peace officer engaged in the performance of official duties. This bill would add the fact that the murdered person was under the age of eighteen to the list of aggravating circumstances.

"Cold, Calculated" Murder (H.3171). The list of aggravating circumstances would be further increased by this bill, which would add murder committed in particularly brutal or inhuman circumstances. Specifically, the bill lists the following circumstances: the murder was especially heinous, atrocious, or cruel; the murder was committed in a cold, calculated and premeditated manner.

The bill defines "heinous" as "extremely wicked or shockingly evil;" "atrocious" as "outrageously wicked and vile;" and "cruel" as an act "designed to inflict a high degree of pain with utter indifference to, or even enjoyment of, suffering of others."

Shoplifting Penalties Increased (H.3139). Should this bill be passed into law, the penalties for shoplifting would be increased so that a fine of up to \$1,000 and/or ten years in prison could be imposed for the first or any subsequent offense, if the value of the shoplifted merchandise is \$200 or more. For a first offense where the value of the goods is less than \$200, but more than \$50, the punishment would be a fine up to \$600 and/or imprisonment for no more than six months. If a person is caught shoplifting goods valued at less than \$50, the fine would be no more than \$200; or jail for no more than 30 days.

Private Law Enforcement Companies (H.3143, H.3144). The first bill would allow the governing body of any county to contract for law enforcement protection with any company or organization having the management of any residential development. "Residential development" is one in which fifty or more persons are permanent inhabitants. Any law enforcement officer assigned to provide law enforcement protection as provided in this section would have all the rights, powers, and duties prescribed by law for deputy sheriffs.

All expenses incurred by the county in providing law enforcement protection to the residential development must be paid by the company or organization as provided in the contract.

The second bill, similar in nature, would provide that the sheriff of any county may contract with any company or organization to provide law enforcement protection to any residential development having fifty or more inhabitants. The sheriff would appoint the necessary deputies who must be satisfactory to the company or organization. The salary and all expenses of a deputy would be paid by the company or organization.

Denying Work Release to Certain Prisoners (H.3173). Work release and extended work release programs would be denied to prisoners convicted of the following offenses: murder, voluntary manslaughter, armed robbery, criminal sexual conduct, assault and battery with intent to kill, trafficking in illegal drugs, or kidnapping.

State Grand Jury (H.3212, H.3213). This legislation would amend the Constitution to establish a state grand jury. The special state grand jury would be empowered to investigate any incident of criminal activity which cannot be efficiently or fully addressed through the standard procedures of the county grand jury system. The Attorney General would ask the State Supreme Court to order the empanelment of a session of the State grand jury. The jury's term would be limited to one year, except in special circumstances, and would not exceed three years. The jury would meet once a month for three days at a time.

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The clerk of the Supreme Court would annually prepare at random a jury list of three hundred names qualified to serve as state grand jurors. From this list sixty persons would be summoned, and from this sixty 18 jurors and four alternates would be selected. The jury would have the same power, authority and duties of county grand juries; it would not, however, pre-empt any of the county grand juries' authority.

H.3213 provides for the issue to be considered at the next election, since this bill would amend the Constitution.

Government Operations

Legislators Notaries Public While in Office (H.3089). This bill would amend Section 26-1-15, so that every member of the General Assembly is, during his term of office, a notary public of this State.

According to current law, notaries are appointed by the Governor for a term of ten years upon the endorsement of at least one half of the legislative delegation from the person's county of residence.

Filling Sheriff Vacancies (H.3097). This bill would provide for filling vacant sheriff positions in the state. If the office of sheriff becomes vacant in a county less than six months prior to the next election for sheriff, the Governor may appoint someone to the positions to serve until a sheriff is elected. If a vacancy occurs with more than six months to the next election, a special election would be held. These provisions would hold true for vacancies caused by a sheriff's removal from office by the Governor because of an indictment.

Supplementing a State Pay Check (H.3102, H.3118). The first bill, H.3102, says that "any compensation paid by the State to any state employee for performing a particular job function is the total compensation the employee may receive directly or indirectly for that function and this compensation may not be supplemented from private sources of any type." If passed, it would go into effect July 1, 1986.

The second bill would allow additional, private compensation if approved by the Budget and Control Board. This bill was tabled in the Ways and Means Committee.

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Popular Election of Public Service Commission (H.3138). Under provisions of this bill, each of the State's six congressional districts would be a public service commission district. One commissioner would be elected in the general election from each district--starting in 1986. In addition, one member would be elected from the State at large to serve as chairman. The term of office would be four years. Members from districts 1, 2, 3 and 5 would have initial terms of two years, to stagger the terms.

See page 17 for a summary of how states choose public service commissioners.

"Backup" Appropriation Bill (H.3083). This legislation is designed to provide a "backup" appropriation bill should the legislative process be deadlocked--usually by a recalcitrant Senate--and no new appropriation bill is completed by the mandatory adjournment date. The bill states that "If the General Appropriation Act for the following fiscal year is not enacted by June 15 of any year, the Appropriation Act of the then current fiscal year shall continue in force until another General Appropriation Act is enacted."

Counties and Sewer System Operations (H.3208). Section 6-15-10, of the Code governs sewerage collection, disposal, and treatment by "governmental entities." This bill would include counties in the definition of that term, thereby making the provisions of the Chapter apply to counties.

County Optional Sales Tax (H.3204). This measure would allow any county to levy a sales tax of up to one percent on the gross proceeds of sales in the county which are subject to tax under Chapter 35 of Title 12. Voters would first have to approve the tax, after it was recommended by the governing body of the county. Money collected through the tax would be distributed by the county treasurer to the account of each of the county's school districts on a per pupil basis; there would also be a rollback of school ad valorem taxes in an amount equal to the amount received by each school district from the additional tax.

Contracts for State Employees (H.3191). This bill would require that any person working for the State and making more than \$50,000 a year would have to have a written contract. Exceptions would be made for elected and appointed officials, classified employees, and tenured faculty of state institutions of higher learning.

Buy South Carolina Products First! (H.3195). This legislation would have government bodies buy their consumable supplies from South Carolina producers, so long as the products are equal in quality to out-of-state supplies, and their cost does not exceed by more than five percent the cost of comparable "foreign" products.

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In order to qualify as "in state" products would have to meet certain conditions. Meat products, for example, would have to be processed in South Carolina from animals which were alive at the time they entered the processing plant. Produce would have to be grown, canned, or frozen in South Carolina, while eggs would have to be laid in South Carolina. Finally, seafood would have to be "harvested in South Carolina seas or other waters," or harvested by a person who holds a valid S.C. commercial license.

Children, Students & Families

June is Children's Month (H.3125). This bill would designate June as "Children's Month" in South Carolina. All South Carolinians would be urged to participate in ceremonies and activities honoring children during Children's Month. In order to make sure the festivities are celebrated, the General Assembly would annually appropriate a "sufficient sum" for the Joint Legislative Committee on Children to promote Children's Month.

Children's Task Force (H.3169). This measure would create a Children's Task Force in each judicial circuit to help law enforcement officials with the cases of minors who are the victims of criminal sexual conduct or child sexual abuse. Each task force would have not more than fifteen members appointed by the circuit solicitor. The members of each task force would serve without compensation but would receive the usual mileage, subsistence, and per diem, paid from the South Carolina Crime Victim's Compensation Fund.

Duties of the members of the Children's Task Force would include: medically examining, video taping, interviewing, and counseling children when the use of regular law enforcement officials is not advisable due to the age of the child or other factors.

Veterans Day Observed (H.3099). This resolution would request all state-supported institutions of higher learning to observe the Veterans Day holiday as part of their holiday schedule.

Individual College Boards (H.3103). In 1969 the State College Board of Trustees was created by the General Assembly. The Board oversees operations at the College of Charleston, Francis Marion College, and Lander College. Recent developments at the College of Charleston--rising costs, questioned expenditures, puzzling budget decisions--have prompted this bill which would create a separate, individual college board for each of the institutions. The purpose would be to keep "closer tabs" on the schools.

Simplified Divorce Procedures (H.3216). This legislation would make uncontested divorces less complicated and time-consuming. The procedure could be used by couples who have no children, have made an agreement to divide their property, and have agreed as to payment of their joint obligations. The couple would present their petition for divorce to the clerk of court; the court would "expeditiously consider the cause." The court, after examination of the petition and personal appearance of the parties, would enter a judgment granting the divorce if all requirements were met and the waiting period had been satisfied.

Health and Insurance

False Claims to Insurance Companies (H.3133). This bill would widen the scope of laws dealing with fraudulent claims to insurance companies, by including anyone who "assists, solicits, or conspires with another to present a false claim for payment." The punishment would be up to five years in prison and/or \$5,000 fine.

Organ Transplant Fund (H.3167). In order to assist residents of South Carolina to obtain organ transplants, this bill would create the Organ Transplant Fund. The Budget and Control Board would write the regulations for the fund. To get the Fund going the bill asks for \$1 million from the general fund of the State.

Alcohol and Drug Abuse Treatment (H.3147 through H.3156). This interlocking set of bills is designed to help provide for treatment of alcohol and drug abusers in South Carolina.

The Aging

Homestead Exemptions (H.3174, H.3181). The first measure would amend the Code so that the cutoff date for filing an application for the homestead exemption is July 15 instead of May 1. It would also increase the exemption from the first \$20,000 of fair market value of the house to the first \$30,000. The second measure (H.3181) extends the filing date from May 1 to July 15, but says nothing about increasing the amount of the deduction.

Commission on Aging (H.3201). This bill would make some changes in the makeup of the South Carolina Commission on Aging. It would have one member from each congressional district appointed by the Governor with the advice and consent of the Senate, and one member at-large appointed by the Governor. There are currently two members

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for each district. The chairman would be elected by the commission members for a two year term, instead of being chose by the Governor. There would still be an ex officio member from the House and Senate. The Commission would have to meet six times annually unless a majority voted to eliminate a meeting—but no more than two meetings could be eliminated each year.

Continued Bills

The following measures were "continued" last session and will be coming back onto the House Calendar this time around.

Lights on When Raining (H.2003). This bill would require that motorists turn on their headlights whenever windshield wipers are in use, when it is raining, or when there is fog on the road. Currently, lights are required to be on from a half an hour after sunset until a half hour before sunrise. The bill was continued on June 4, 1985.

Annexation (H.2285, H.2286, H.2287). The first measure, H.2285, reduces the required percentage of freeholders (property owners) required to sign an annexation petition from 75% to 55%. H.2286 provides for annexation of territory by elections if: 1) a petition is signed by 25% of the property owners in the area; or, 2) the city council passes a resolution calling for the election. A majority of voters in the area would have to approve the annexation. H.2287 eliminates the requirement that municipal electors in the expanding city would have to vote in the annexation elections.

H.2285 and H.2286 were continued on June 6, 1985. H.2287 was continued on May 29, 1985.

One-Sided Windshields (H.2582). This bill would make it illegal for motor vehicles to have specially tinted windows that are one-sided—that is, the driver can see out, but others can't see in. The bill was continued on May 22, 1985.

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From Last Session: Some Bills Remaining from 1985

When the 1985 legislative session came to an end in June, a number of bills remained on the House Calendar. The following is a brief review of some of the more notable legislation that will reappear in the months ahead. When last seen these bills were lurking in the vicinity of the "Second Reading, Contested Bills" section of the Calendar.

Execution by Injection (H.2130). Would allow the sentence of capital punishment to be carried out by the use of a fatal injection.

Other states which currently allow the practice are: Arizona, Arkansas, Delaware, Illinois, Nevada, New Jersey, New Mexico, Oklahoma, Texas, and Washington. Idaho provides for execution either by injection or firing squad; Montana has injection or hanging; and North Carolina uses either injections or the gas chamber.

Filing for Elections (H.2016). As amended in committee, this bill allows a person to file for election to only one office at a time. If a person somehow gets nominated for a second office after being nominated for a first office, he or she must withdraw from the election to the first office. Should there be no other person around who had also filed for the first office, then the filing period can be extended for up to one week.

Hazing (H.2420). This bill would prohibit any acts during initiations which "cause or have a foreseeable potential for causing physical harm." Persons would also violate the law if they knew of such acts, were in positions of responsibility or authority, and yet allowed them to take place. Punishment for violation could be a \$500 fine and/or a 12 month sentence. Prior approval from schools, colleges or universities would be required for all initiation rites and proceedings.

False ID Cards (H.2316). Under the provisions of this bill it would be a felony to manufacture false ID cards or driver licenses; it would also be unlawful to possess or use such invalid cards. A prime use of fake IDs, of course, is for underage persons to purchase alcoholic beverages.

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Lobbyist Regulations (H.2123). This bill would impose additional registration and reporting regulations on lobbyists in South Carolina. The bill states that its purpose is "to preserve and maintain the integrity of the governmental policy-making process in South Carolina."

Lobbyists would have to register with the State Ethics Commission, pay a fee of twenty dollars, and indicate who is employing them as a lobbyist. The State Ethics Commission would furnish the General Assembly, heads of state agencies and chairmen of committees with the name and address of the lobbyist and his or her employer, and what aspects of the legislative or administrative process the lobbyist will try to influence.

For five years a lobbyist would have to keep the following records: 1) total income; 2) sources of income; 3) total expenditures. A list of itemized income was deleted in committee.

Lobbyists would have to file quarterly reports telling: 1) who they lobbied for during the period; 2) what government actions they tried to influence; 3) source and amount of income; 4) totals of all expenditures made during the quarter, including special events for public officials or employees; 5) money loaned to public officials; and 6) business associations with public officials.

State agencies which conduct lobbying activities would have to report them in the same fashion as outlined above.

The State Ethics Commission would have power to require answers to questions, administer oaths, subpoena and order testimony, ask the Attorney General to take civil proceedings, set forth regulations, and assess civil penalties for failure to file reports.

Auto Inspection Violation (H.2160). As amended in committee this bill provides a \$15 fine for failure to display a vehicle inspection sticker.

Phase-In of Inventory Tax Relief (H.2595). This bill would provide that counties and municipalities would be reimbursed for revenue lost because of the business tax exemption on the basis of their 1984 tax year inventory values.

Notice of Overdue Support (H.2562, S.339). Under the terms of this bill the Clerk of Court would have to provide information about overdue, court-ordered support payments to consumer reporting agencies who requested the information.

The person being reported on would have to receive prior written notice, and would have 20 days to call for a hearing on the matter. At the hearing the only issues relevant would be: 1) is the person

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being reported on really the person who owes the payments? 2) are there errors in the amount supposedly owed? 3) did the original court imposing the payments have jurisdiction over the obligor?

"Consumer Reporting Agencies" are those organizations which gather and evaluate consumer credit information and provide reports to third parties.

Location of Landfills (H.2131). Any political subdivision, state agency or department, or any private business disposing of solid waste would not be allowed to locate a sanitary land fill within three miles outside the corporate limits of a city or town.

Chiropractors and Health Insurance (H.2319). This bill would include chiropractors in the group of service providers who are reimbursed through health and accident insurance policies.

There are thirteen accredited colleges of chiropractic in the United States and Canada. The four years of training include courses in anatomy, chemistry, neurology, physiology, x-ray diagnosis, and clinical work.

In order to be licensed in South Carolina a person must be licensed by the state Board of Chiropractic Examiners. A two-part exam is required: the National Boards, and a practical exam. The Boards can be exempted if the applicant took and passed them in the chiropractic college.

According to the S.C. Chiropractic Association there are currently 299 licensed practitioners in South Carolina.

Prohibit Local Gun Control Laws (H.2256). This measure would prohibit any county, municipality, or other political subdivision from enacting ordinances controlling firearms—including transfer, ownership, possession, carrying and transportation. Any existing local laws on firearms would be made null and void.

Water/Sewage Territory (H.2514). Under provisions of this bill no water or sewage system could be run into another county unless that county passed an ordinance approving it. This would apply to systems owned or operated by a county, municipality, special purpose district, or political subdivision.

Control of Companion Animals (H.2013). "Companion animals" are, basically, dogs and cats, although this bill does include "foxes and other canines." The legislation sets certain standards for control of these animals, and authorizes counties and municipalities to enact and enforce ordinances consistent with them.

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Basically, this legislation would require persons to keep their companion animals under control: companion animals would have to stay on their owner's property unless on a leash or other restraint. Persons would be forbidden to keep a "vicious companion animal" unless it was properly restrained.

Animals running loose would be impounded in an animal shelter. An owner would have to pay a \$25 fee and prove that the animal had its rabies shots. If not picked up in 21 days, the animal would either be destroyed or turned over to a humane society.

Penalties for violating these provisions, and for interfering with animal control officers or attempting a daring pre-dawn "pound break" would be a fine of between \$50 and \$200. Persons violating Section 47-3-1 of the Code (relating to the regulation of dogs and other domestic pets by counties) could be fined between \$100 and \$300.

Funeral Vaults (H.2367). This bill, as originally introduced, dealt with Act 373 of 1984. That Act required that funeral vaults be at least ten inches below the earth's surface. H.2367 sought to require the Department of Health and Environmental Control to enforce those requirements. However, the bill has been amended and would repeal Act 373 of 1984.

Statute of Limitations for Architects (H.2586). This bill would set a ten year limit on the time actions could be brought to recover damages arising from the defective or unsafe conditions supposedly caused by an improvement to real property. The bill further deletes the section of the Code (15-3-650) that says such actions must be brought within two years or not at all.

The legislation specifically states that this limitation does not cover actions which are "hidden" in that they could not be discovered using "reasonable diligence." The bill also places outside its protection those actions causing damage which arise from exposure to toxic or harmful substances, including radiation.

Disqualification from Unemployment Benefits Repealed (S.260). This bill proposes repeal of Section 41-35-120, which states which workers are ineligible for benefits under Employment Security. These are: those who leave work voluntarily; those who are discharged for misconduct; those who fail to accept work, with some exceptions, such as whether the work is suitable according to a persons health, training and experience, etc.; those persons who are out of work because of participation in a labor dispute; those who are receiving benefits from other sources; and those who have voluntarily retired from their most recent work.

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Statute of Limitations, Law Enforcement Officers (H.2225). This proposal would set a two year limit on bringing a civil action against law enforcement officers for liabilities possibly incurred during their official capacity. The term "law enforcement officer" means someone on the regular payroll of the State or any of its political subdivisions, who has the authority to enforce laws and make arrests.

Liability for Injuries (H.2365). This bill would make the owner or occupier of commercial property liable for personal damages to persons under two conditions. First, the persons must have come onto the property "for any lawful purpose"--basically, to make use of its commercial nature; and second, the owner or occupier must have failed to keep the premises and approaches safe.

Open Containers in Buses and Limousines (S.197). In 1984 the General Assembly passed a bill which prohibited open containers of beer or wine in motor vehicles. This bill would exempt two classes of vehicles from that ban: buses capable of carrying ten or more persons, and limousines that have a partition between the driver and passengers.

Social Worker Board (H.2807). This bill would increase the requirements and standards for social workers in the state. Social work practice would include such activities as counseling, providing psychological explanations and assistance to individuals and groups, and other applications of similar knowledge and skills.

Persons could apply before July 1, 1986, for certification and licensure if they could establish they meet the standards and requirements set in this bill. Certain persons, such as physicians, teachers, attorneys and clergy, are exempted from meeting these standards, so long as they do not "hold themselves out to the public" as being social workers as the bill knows them.

Teacher Requirements (H.2806). One part of the Education Improvement Act required "minimum knowledge proficiency standards" for teachers. This bill would exempt teachers with 25 or more years of teaching service from those standards; the date for reaching the 25 year mark would be set at July 1, 1986, rather than the effective date of the act.

Workers' Compensation: Termination of Payments (H.2598). This legislation would allow termination of workers' compensation payments after they have started. The termination could be done for the following reasons: 1) if the employee returns to any work; if the employee agrees that he is able to work and fills out the required form; if the employee has been released to full duty work

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by two physicians, "one of whom must be a specialist;" if the employee is released to limited duty work and the employer provides it; if the employee refuses medical treatment, medical examinations or refuses to cooperate in being rehabilitated. Provisions are made for reports to the Industrial Commission and for appeals by the employee.

Law Officers Taking Children Into Custody (H.2786). This bill would allow law enforcement officers to take a child into protective custody without the consent of parents, guardians, or others exercising temporary or permanent control over the child if the officer has received a written recommendation from a local child protective service agency staff person that there is probable cause to believe that by reason of abuse or neglect there is imminent danger to the child's life or physical safety.

Workers Compensation: Back Injuries (H.2599). This bill would change the percentage of "loss of use of the back" needed to qualify for total disability, from fifty percent to sixty percent.

Pharmacist = Doctor of Pharmacy (H.2575). This bill would state that a "registered pharmacist" means "doctor of pharmacy." It would also set criteria for continuing education requirements for the profession.

Infrastructure Authority (H.2737). This bill proposes establishment of the South Carolina Infrastructure Authority, to assist local governments with financial assistance for water, sewer, and other public work projects. This assistance can take the form of low-interest loans or credit enhancement through the Infrastructure Fund.

The governor will appoint three members to the Board of Directors; four ex officio members will be the Chairman of DHEC, Chairman of the Water Resources Department, a member of the House appointed by the Speaker, and a Senator appointed by the President Pro Tempore.

The Board will: 1) Develop an annual assessment of the public need for water works, sewage facilities, etc.; 2) Receive applications from local governments for loans; 3) Adopt an annual list of priorities for projects; 4) Monitor loan repayment from local governments; and 5) Provide for an annual audit.

Family Court and Mentally Ill Children (H.2750). This bill would give family courts in this State the same powers as probate courts regarding ordering the admission, review and discharge of mentally ill or mentally retarded children to institutions and facilities.

Lump Sum Payments for Disability (H.2600). This would permit lump sum disability payments only under certain conditions. Specifically: 1) when the payment is by consent of both the employee (or his dependents) and the party paying the award; or, 2) where the employee (or his dependents) can prove extraordinary circumstances for a lump sum payment.

Negligence Claims (H.2306). Proposes changes in the laws regarding accidents and negligence. First, the bill would strike down "contributory negligence" as a defense. As it reads: "the fact that the claimant was also at fault in causing the injury complained of does not bar recovery of damages unless that fault was greater than the fault of the defending tortfeasor." However, the amount of damages would be proportionate to blame for the injury. (A "tortfeasor" is defined as a wrong-doer, someone who commits a tort. A "tort," of course, is a private or civil wrong or injury.)

Pharmacy robbery (H.2017). This would create three new separate offenses: pharmacy robbery, pharmacy larceny and armed pharmacy robbery. Pharmacy robbery and pharmacy larceny would carry penalties of not more than 20 years in prison or \$25,000 in fines or both. Armed pharmacy robbery, which occurs when a persons using a weapon and endangers the lives of others, would have a penalty of not more than 25 years in prison and/or a \$35,000 fine.

Authority of State Fire Commission (H.2209). Since 1981, the Budget and Control Board has been concerned about the differing regulations relating to fire and life safety which were being developed by various state agencies. In an effort to gain some consistency and uniformity, H.2209 was introduced. This legislation would provide that the Fire Commission is the single source of authority for fire prevention and protection. H.2209 further provides that the Fire Commission may not promulgate regulations concerning the Uniform Standard for Manufactured Housing, regulations pertaining to forest fire control, or regulations of the SC Building Code Council. In addition, H.2209 provides that the State Fire Marshal can appoint anyone certified by the State Fire Marshal to exercise the duties of the Fire Marshal. The bill also provides that administrative responsibility for the operation of the SC Fire Academy is to be transferred from the State Board for Technical and Comprehensive Education to the SC Fire Commission.

Background Search of Child Care Workers (H.2494). This bill would have SLED conduct a nationwide check of persons who have primary custody of children for twenty or more hours per week. This would include employees of the following: Department of Youth Services or Department of Corrections, school districts, the Department of Mental Health and the Department of Mental Retardation, a "child welfare agency" as defined by the Code, and employees of child day care facilities licensed by the Department of Social Services.

Notice of Disciplining of Physicians (S.157). This legislation would require the medical staff chief or medical director of every health care facility to report to the State Board of Medical Examiners actions resulting in the revocation, suspension or limitation of a physician's privileges to practice at a medical facility.

Adventures in the South Carolina Code of Laws

Tattooing
16-17-700

"It shall be unlawful for any person to tattoo any part of the body of another person."

Swindling
16-13-320

"Swindling" is defined as any action undertake to: (a) inveigle or entice by any arts or devices any person to play at cards, dice or any other game of chance ... (b) sell, barter or expose to sale any kind of property which has been before sold...(c) overreach, cheat, or defraud by any other cunning, swindling arts and devices, so that the ignorant and unwary, who are deluded thereby, lose their money or other property..."

The Case Note section reveals that "Selling a blind horse as a sound horse is not indictable under this section."

Fortunetelling
16-17-690

It is unlawful to engage in "fortunetelling, palmistry, phrenology, clairvoyance or the prediction of future events by cards" in order to promote another business or trade.

How Do States Choose Public Service Commissioners?

Periodically there are suggestions that South Carolina change its method of selecting members to the state Public Service Commission. This year a bill, H.3138, has already been prefiled to have them elected by popular vote. When such measures are proposed the question is then raised—just how do other states select the members of their public service or public utility commissions? A summary follows to answer that question. Source: Council of State Governments.

Members Appointed by Governor

Illinois, Indiana, Kentucky, Massachusetts, Nevada, New Hampshire, Oregon, West Virginia.

Members Appointed by Governor/Approved by Legislature

Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Iowa, Kansas, Maine, Maryland, Michigan, Minnesota, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Texas (Public Utilities Commission), Utah, Vermont, Washington, Wisconsin, Wyoming.

Elected

Alabama, Arizona, Georgia, Louisiana, Mississippi, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, Texas (Railroad Commission).

Appointed by the Legislature

Virginia.

Local Government Finance Act: Increasing the Power to Tax?

Background

One of the more significant measures facing the 1986 South Carolina General Assembly might just be H.3252, the "Local Government Finance Act." Simply speaking, this bill would permit counties and municipalities to levy a variety of taxes on residents, including local income, sales, occupational and and motor vehicle taxes.

Why Local Taxes?

At present, local governments in South Carolina have the property tax as the major source for their "self-generated" revenues. They also raise revenues from a number of sources such as business licenses, other licenses (for everything from getting married to keeping a dog), inspection fees, court fines, franchise fees for cable television and so forth, and service fees for such items as water, garbage, or recreational facilities. Other money comes from the State—the Aid to Political Subdivisions category in the annual appropriation bill—and the federal government, through a variety of sources.

According to many counties and municipalities these revenue sources are no longer adequate. As populations rise and service demands increase, local governments are finding that their budgets are stretched ever tighter. State aid is dependent, of course, upon State revenues—prosperous years will benefit local governments, and during lean economic years, they will fare accordingly.

Most state aid has traditionally gone to education, rather than general purpose use by the political subdivisions. Recent revenue sources such as the accommodations tax and indigent health care funds are set aside for specific purposes. While these funds are undoubtably useful to local governments, they are relatively inflexible.

Federal aid, on the other hand, seems to be on the endangered species list. Revenue sharing, that idea that took hold in the 1970's, will be gone soon. This will leave local governments with a substantial reduction in their revenues. Tax reform on the federal level is also problematical: some proposals call for eliminating the deduction for state and local taxes, which could adversely affect local governments.

Loss of General Revenue Sharing

The federal funds known as General Revenue Sharing are scheduled to phase out during the present fiscal year. The impact of this upon South Carolina municipalities and counties will be profound. Examples of how much local governments depend on these funds is provided below (courtesy of the South Carolina ACIR):

<u>County/Municipality</u>	<u>% of Budget Federal Revenue</u>
Berkeley County	7.8
Charleston County	12.4
Greenville County	13.9
Lexington County	17.9
Richland County	8.7
Spartanburg County	6.0
Columbia	20.9
Charleston	17.6
Greenville	18.0
Mount Pleasant	4.7
North Augusta	14.9
Florence	16.6

Clearly, elimination of federal revenue sharing will have a dramatic impact on these local governments and their operations. To make up the difference, more funds would have to be allocated on the state level through aid to subdivisions, or more revenue would have to be raised locally. Local revenues would mean either an increase in the property tax, or additional revenue-raising authority.

Can the Property Tax Make the Difference?

According to a study by Clemson University, the property tax provides local governments with less than half of their revenues. On the average counties get 30% of their revenue from the property tax, and cities obtain 36% of their total income from that source. Larger, more urban localities bring in more money, of course--some up to 47%. [*Local Government in South Carolina*, Bureau of Governmental Research and Service, University of South Carolina.]

According to this volume by researchers at the University of South Carolina, the revenue problems of local governments are not new--and this is a fact recognized by the General Assembly itself. The report states that:

In fact, the General Assembly created a Special Legislative Study Committee on Alternatives for Financing County and Municipal Governments. Its report, *Local Government Finance in South Carolina 1978-1980*, stated that local revenue sources were not growing fast enough and needed to be expanded, or diversified. The recommendation was for the state to allow

local governments to use a local sales tax, as well as an accommodation tax on hotel rooms. These recommendations are consistent with similar ones from the United States Advisory Commission on Intergovernmental Relations in which they have called for a more effective and equitable local revenue system. This generally involves allowing local governments to use a sales or income tax.

Home Rule--Almost

The "Home Rule" Act of 1975 was a significant event in South Carolina's history; for the first time in modern days local governments were largely independent of their legislative delegations. One area, however, was not included in home rule: fiscal powers. It remains for the state to determine what taxes are levied, who is to be taxed, and who is to receive the income.

Some observers maintain this is a sensible system, giving uniformity and consistency to our state tax structure. For example, if local governments had the power to tax, one municipality might raise its rates, thereby causing problems to local business and perhaps discouraging new industry or residents from moving in. A second argument against local tax powers is that they pre-empt the state from tapping revenue sources in the future. At the very least, they would make obtaining state-wide tax increases politically difficult.

There is also the question of unfair distribution of income: larger, richer counties and municipalities would benefit from local taxation, while the poorer parts of the state would not have the same resources to draw upon. Considerations of this sort were important during debate and passage of the Education Finance Act during the 1970's.

On the other hand, there are arguments to support local government taxation powers. First of all, local governments are the level at which many services are delivered to people; it is logical that they have the ability to raise revenues to provide those services. Further, it is only proper that persons receiving the services be the ones who pay for them--and this is best accomplished through local taxes.

A second, related, argument is that local government is the proper place to make decisions regarding such services and taxes. It is closer to the population and their needs, has a better feel for available revenue resources, and thus should be able to respond better than state government.

As for the "unfairness" argument--well, richer localities have to provide more services for their population, so they need their tax revenues.

What Sort of Taxes for Local Governments?

As noted above the Advisory Commission on Intergovernmental Relations (ACIR) has recommended increasing tax power for municipalities and counties. These recommendations have been incorporated into the Local Government Finance Act (H.3252) which has been introduced into the S.C. General Assembly. The bill proposes six areas where local governments would be given the power to levy taxes: sales and use; income; motor vehicle license; coin-operated devices; admissions; occupational or payroll.

Local Option Sales/Use Tax

Counties and municipalities would be allowed to levy a tax of either 1/2% or 1% on items subject to state sales tax. Before the tax could go into effect there would have to be a countywide referendum approving it. Revenue would be distributed by the State Tax Commission according to where sales were made. It is estimated that a 1% sales tax increase could raise as much as \$200 million for the state as a whole.

Local Option Income Tax

Counties and municipalities would be able to impose this tax through ordinance. The rate on taxable income (as determined by the state income tax system) could be from 10% up to 40%, and would be set at increments of 5%. For example, the rate could be 5%, 10%, 15% and so forth, but not 7% or 12%. The tax would be levied on individuals, corporations and businesses. A deduction would be allowed on state income taxes for local income taxes paid. Once again the State Tax Commission would handle the collection and distribution (on a quarterly basis) to the local governments. A 10% tax could bring in a total of \$100 million.

What would the income tax mean on a county-by-county basis? Some counties would bring in substantial amounts: a 10% local income tax could bring in \$5.1 million for Aiken and Anderson, \$11 million for Charleston and Richland, \$14 million for Greenville. A 40% tax would generally increase this take four-fold. (Projections by the South Carolina ACIR can be found at the end of this research report.)

Motor Vehicle License Tax

Local governments would be allowed to charge a fee up to 100% of that levied by the state for registration and license for motor vehicles. The tax could be imposed by county or municipal ordinance. The tax would be paid when the person paid his personal property tax on the vehicle, and a sticker would be issued to indicate payment. If the tax were set at 50% of current state fees, it would bring in an estimated \$20 million.

Coin-Operated Device Tax

Coin-operated devices include such items as juke boxes, kiddy rides and kiddy cartoon equipment, video and amusement games. Local governments would be permitted to place a tax up to half that of the one levied by the state. Revenue estimate: \$3 million.

Local Option Admissions Tax

A tax of up to 2% (50% of the current state rate) could be imposed by county or municipal ordinance on tickets and paid admissions. The Tax Commission would handle the administration. Revenue could reach \$3 million.

Local Optional/Payroll Tax

This tax would be imposed on "salaries, wages, commissions, and other compensation earned for work done or services performed or rendered within the county or municipality." Net profits of businesses, as well as individual income, would be included. The rate could be set between 1% and 3%; there would be a deduction on the state income tax for this local tax. The Tax Commission would administer the tax.

Conclusion

Undoubtably local governments can make persuasive arguments in favor of granting them tax powers. Increases in population, greater demand for services, unreliability of traditional revenue sources—these three points could carry considerable weight. On the other hand, dislike of increased taxation, unwillingness to weaken the legislature's fiscal authority, and concern for possible double taxation are points running counter to the proposed legislation. Whatever the outcome, legislators will have ample opportunity to reflect on Edmund Burke's melancholy observation: "To tax and to please, no more than to love and be wise, was not given to man."

Legislative Update, January 14, 1986

Estimated Local Income Tax Revenues by County - FY 1985-86
Source: S.C. ACIR

<u>County</u>	<u>10% Tax</u>	<u>40% Tax</u>
Abbeville	659,706	2,638,823
Aiken	5,133,710	20,534,841
Allendale	287,872	1,151,486
Anderson	5,109,721	20,438,884
Bamberg	347,845	1,391,379
Barnwell	647,711	2,590,844
Beaufort	2,590,844	10,363,378
Berkeley	2,866,721	11,466,885
Calhoun	299,866	1,199,465
Charleston	11,059,067	44,236,269
Cherokee	1,511,326	6,045,304
Chester	1,043,535	4,174,138
Chesterfield	1,079,519	4,318,074
Clarendon	467,791	1,871,165
Colleton	791,647	3,166,588
Darlington	2,003,107	8,012,426
Dillon	683,695	2,734,780
Dorchester	2,518,877	10,075,506
Edgefield	383,829	1,535,315
Fairfield	551,754	2,207,016
Florence	3,982,224	15,928,895
Georgetown	1,499,331	5,997,325
Greenville	14,969,323	59,877,293
Greenwood	2,494,887	9,979,549
Hampton	529,759	2,119,037
Horry	3,586,400	14,345,601
Jasper	299,866	1,199,465
Kershaw	1,919,144	7,676,576
Lancaster	1,727,230	6,908,918
Laurens	1,811,192	7,244,768
Lee	371,834	1,487,336
Lexington	6,465,116	25,860,465
McCormick	215,904	863,615
Marion	827,631	3,310,523
Marlboro	671,700	2,686,802
Newberry	1,163,481	4,653,924
Oconee	1,871,165	7,484,662
Orangeburg	2,338,957	9,355,827
Pickens	3,310,523	13,242,094
Richland	11,850,714	47,402,857
Saluda	383,829	1,535,315
Spartanburg	8,768,089	35,072,356
Sumter	2,302,973	9,211,891
Union	911,593	3,646,374
Williamsburg	731,674	2,926,694
York	4,929,801	19,719,204